

MAR 10 2015

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# SENATE CONCURRENT RESOLUTION

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URGING THE COUNTIES TO PROTECT THE PUBLIC INTEREST BY ENGAGING  
PRIVATE PROPERTY OWNERS IN SHARING IN THE COST OF  
MITIGATING THE POTENTIAL RISKS AND HAZARDS POSED BY TREES  
ON THEIR PROPERTY.

1 WHEREAS, Hawaii's abundant trees form an important and  
2 beautiful part of the State's landscape and natural environment;  
3 and  
4

5 WHEREAS, the benefits of trees, especially in densely-  
6 populated urban areas, are manifold, including:  
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8 (1) Providing shade and cooling their surroundings;  
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10 (2) Absorbing carbon dioxide and releasing oxygen;  
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12 (3) Conserving energy and water;  
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14 (4) Reducing soil erosion;  
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16 (5) Cleaning the air of pollutants;  
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18 (6) Masking unsightly views and decreasing noise  
19 pollution; and  
20

21 (7) Raising property values; and  
22

23 WHEREAS, many of Hawaii's trees are very old, which can  
24 create potential risks and hazards due to falling trees or  
25 branches and very large roots that buckle nearby sidewalks and  
26 cause pedestrians to trip and fall; and  
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## S.C.R. NO. 71

1 WHEREAS, in many established residential neighborhoods,  
2 older trees are frequently located on private property for which  
3 the county has an easement or right of way, thereby exposing  
4 county governments to greater legal liability for injuries  
5 caused by older trees; and

6  
7 WHEREAS, the counties have often resolved legal actions for  
8 claims for injuries caused by these trees through significant  
9 monetary settlements, which constitute a very costly expenditure  
10 of public funds; and

11  
12 WHEREAS, it can also be extremely costly for the counties  
13 to undertake large-scale, countywide measures to mitigate the  
14 potential risks and hazards posed by these trees; and

15  
16 WHEREAS, the large expenditure of public moneys by the  
17 counties to settle legal claims or to mitigate potential risks  
18 and hazards posed by these trees could adversely affect county  
19 functions and services; and

20  
21 WHEREAS, in order to balance their budgets, counties might  
22 be compelled to reduce much-needed public services or find ways  
23 to increase revenues, such as through fees and taxes; and

24  
25 WHEREAS, efforts to mitigate the potential risks and  
26 hazards posed by these trees implicate both public interests  
27 (e.g., public safety; the expenditure of public funds) as well  
28 as private interests (e.g., private property rights); and

29  
30 WHEREAS, private landowners possess many rights to the  
31 properties they hold; however, at the same time, governments,  
32 acting for the public, have long exercised powers that may  
33 affect individual property owners' use of or control over their  
34 land; and

35  
36 WHEREAS, the rights that individuals enjoy in private  
37 property are balanced by their responsibilities to the  
38 community; and

39  
40 WHEREAS, the complex relationship between individual rights  
41 and communal good has been in constant flux throughout history  
42 and will likely continue to change with time; and



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1 WHEREAS, a careful, proper balance between the rights of  
2 private property owners and the interests of the general public  
3 must be struck; and  
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5 WHEREAS, in light of the public interest in safe sidewalks;  
6 the need for prudent expenditure of taxpayers' money; and the  
7 continued provision of necessary county services, without  
8 increasing fees or taxes, it is reasonable that private owners  
9 share in the costs of mitigating the potential risks and hazards  
10 posed by trees situated on their property, regardless of the  
11 presence of a county easement or right of way; now, therefore,  
12

13 BE IT RESOLVED by the Senate of the Twenty-eighth  
14 Legislature of the State of Hawaii, Regular Session of 2015, the  
15 House of Representatives concurring, that the counties are urged  
16 to protect the public interest by engaging private property  
17 owners in sharing in the costs of mitigating the potential risks  
18 and hazards posed by trees on their properties over which the  
19 county has an easement or right of way; and  
20

21 BE IT FURTHER RESOLVED that the process for determining  
22 cost-sharing initiated by the counties be open, collaborative,  
23 and cooperative, in which the perspectives and ideas of private  
24 property owners are welcomed and respected; and  
25

26 BE IT FURTHER RESOLVED that when a county becomes aware of  
27 an unsafe condition caused by a tree on private property over  
28 which the county has an easement or right of way, the county  
29 notify and work with the private-property owner to have the  
30 unsafe condition mitigated or removed; and  
31

32 BE IT FURTHER RESOLVED that certified copies of this  
33 Concurrent Resolution be transmitted to the Mayor and City  
34 Council of the City and County of Honolulu, Mayor and County  
35 Council of Hawaii County, Mayor and County Council of Maui  
36 County, and Mayor and County Council of Kauai County.  
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38  
39

OFFERED BY:

*Ronald L. Bab*  
*Ronald E. Bab*

*Therese Chun Cleveland*  
*J. S. Chun*  
*J. S. Chun*



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*Kama Thol*  
*Mike Gubb*

